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December 1, 2006

VIA FACSIMILE AND HAND DELIVERY

Jeff S. Jordan, Esq.
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 5789

Dear Mr. Jordan:

As counsel for the Bacardi U.S.A., Inc. Political Action Committee ("BAC-PAC") and its treasurer, Robert M. Higdon (the "Treasurer"), and pursuant to 2 U.S.C. § 437(g)(a)(1) and 11 C.F.R. § 111.6, I write to you regarding the amended complaint (MUR 5789) filed recently by the Citizens for Responsibility and Ethics in Washington ("CREW").¹

At the outset, we respectfully object to the procedure that CREW has used in this instance. The amendment that was filed on October 19, 2006, states an entirely new allegation—although similarly baseless—than those described in CREW's initial complaint and to which Bacardi has already responded. Thus, we do not see this as an amendment but rather a new complaint. Nevertheless, we respectfully request that the Federal Election Commission (the "Commission") dismiss the amended complaint filed by CREW for the reasons stated below.

To the extent that amended MUR 5789 contains allegations stated in the original complaint, we incorporate by reference our response filed on September 28, 2006 (copy enclosed) and deny each of the allegations as stated therein. In regard to the new allegation asserted in amended MUR 5789, we assert the following.

¹ Additionally, we respond on behalf of Bacardi U.S.A., Inc., to the extent that the amended complaint references any activities by the corporation

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Amended MUR 5789

On October 19, 2006, CREW filed an amended complaint with the Commission. The amendment alleges that Bacardi violated the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 *et seq.* ("FECA"), to wit, 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(f)(1), by "using a corporate list of outside vendors, including lawyers and lobbyists, to distribute invitations to [a] September 30, 2005, [Bill Nelson for US Senate] fundraising event."

Background

BAC-PAC is the separate segregated fund ("SSF") of Bacardi U.S.A., Inc. ("Bacardi"), an importer and national distributor of distilled spirits and wines. On September 30, 2005, BAC-PAC held a fundraising event for Bill Nelson for US Senate (the "Nelson Event"). The event was organized by two employees of Bacardi who volunteered their efforts on behalf of the Nelson Event.

Response to the New Allegation

Bacardi denies the use of a corporate list to distribute invitations to the Nelson Event and avers that no corporate list was used. (See attached affidavit of Frederick J. Wilson III, Esq., Senior Vice President, General Counsel and Secretary for Bacardi, attesting that a corporate list was not used and does not exist.)

The two Bacardi employees who volunteered their time to Bill Nelson for US Senate handled the logistics for the event, including the extension of invitations (the "Volunteers"). These Volunteers, acting in their personal capacity and consistent with FECA and its regulations, did not rely upon any corporate list of outside vendors or any other company list to solicit contributions to Bill Nelson for US Senate or distribute invitations to the Nelson Event. The Volunteers merely approached individuals within their circle of contacts and friends whom they believed would be interested in supporting Bill Nelson's Senate candidacy. Certainly some of the invitees were individuals with whom the Volunteers interacted on a professional basis from time to time. In addition, it is probable that some of those invited forwarded the invitation to their own friends, colleagues and contacts. There, however, was no corporate list of vendors used by the Volunteers to invite attendees to the Nelson Event. Accordingly, there was no cost to be reimbursed in advance by BAC-PAC as alleged in the amended complaint.

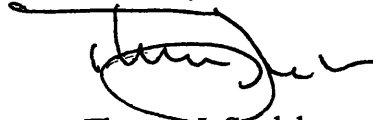
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Conclusion

In an amended complaint to MUR 5789 filed on October 19, 2006, CREW raised an additional allegation. This allegation is baseless in fact and should be dismissed.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Spulak", written over a horizontal line.

Thomas J. Spulak
Partner

Enclosures

cc: Frederick J. Wilson III, Esq., Senior Vice President, General Counsel and Secretary,
Bacardi U.S.A., Inc.
Robert M. Higdon, Treasurer, Bacardi U.S.A., Inc. Political Action Committee


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**AFFIDAVIT OF FREDERICK J. WILSON III, ESQ., IN SUPPORT OF RESPONSES
FILED BY BACARDI U.S.A., INC., TO COMPLAINTS FILED WITH THE FEDERAL
ELECTION COMMISSION BY THE CITIZENS FOR RESPONSIBILITY AND ETHICS
IN WASHINGTON**

I, Frederick J. Wilson III, Esq., on this, the first day of December, 2006, being first duly sworn, declare as follows:

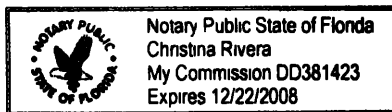
- I make this affidavit freely and voluntarily and based upon my personal knowledge.
- I have been an employee of Bacardi USA, Inc., since 1986. I am currently Senior Vice President, General Counsel and Secretary of Bacardi; I have held the position of General Counsel since 1994. In this capacity, I am responsible for ensuring that Bacardi is in compliance with all applicable laws and regulations, including those administered by the Federal Election Commission (the "FEC").
- On August 7, 2006, the Citizens for Responsibility and Ethics in Washington ("CREW") filed a complaint with the FEC, alleging violations of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 *et seq.* ("FECA"), by Bacardi as well as its separate segregated fund, the Bacardi U.S.A. Inc. Political Action Committee ("BAC-PAC") and BAC-PAC's treasurer, Robert M. Higdon (collectively, the "Respondents"). On October 19, 2006, CREW filed an amended complaint alleging an additional violation.
- The complaints allege, *inter alia*, that the Respondents violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(f)(1) by using a corporate list of vendors to solicit contributions for, or to distribute invitations to, fundraising events benefiting the campaigns of Senators Mel Martinez (R-FL) and Bill Nelson (D-FL).
- The invitations to the two fundraising events were extended by two employees of Bacardi, acting in their personal capacity as volunteers and consistent with FECA. They invited friends and contacts to the events. Some of those invited were individuals whom the volunteers had met through professional interactions. It is likely that some of the individuals to whom invitations were originally extended forwarded the invitation to their own friends, colleagues and contacts.
- No corporate vendor list was used for either fundraising event, Bacardi does not maintain a corporate vendor list.

By:


Frederick J. Wilson III

Sworn and subscribed to me this 1 day of December, 2006 by FREDERICK J. WILSON III
whom is personally known to me / has provided _____ as identification.


Notary Public
State of Florida



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